
**CHILD SUPPORT PROGRAM
FTB CHILD SUPPORT COLLECTION PROGRAM**

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**CHAPTER 12-500 FRANCISE TAX BOARD (FTB) CHILD SUPPORT
COLLECTION PROGRAM REGULATIONS**

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**CHAPTER 12-500 FRANCHISE TAX BOARD (FTB) CHILD SUPPORT COLLECTION
PROGRAM REGULATIONS**

12-501 DEFINITIONS 12-501

- .1 Definitions of terms used in Chapter 12-500, which are common to the Child Support Enforcement Program, are found at Sections 12-101, 12-301, 12-601, and 12-701.
- .2 When used as a term specific to Chapter 12-500:
- (a) Reserved
 - (b) Reserved
 - (c) (1) "Compliance with a judgement or order for support" means that, as set forth in a judgement or order for child or family support: the obligor is no more than 30 calendar days in arrears in making payments in full for current support; or is making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a support arrearage; or is making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a judgement for reimbursement for public assistance; or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order.
 - (d) Reserved
 - (e) Reserved
 - (f) (1) "Franchise Tax Board (FTB) Child Support Collection Program" -- means the program whereby district attorneys refer child support cases to the FTB for collection in the same manner the FTB collects delinquent tax obligations. The FTB Child Support Collection Program is distinct and separate from the FTB Tax Refund Intercept Program regulated at Chapter 12-700.
 - (g) Reserved
 - (h) (1) "Hardship" -- For purposes of administering the FTB Child Support Collection Program, is defined in Revenue and Taxation Code Section 19271(d).

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- (A) Revenue and Taxation Code Section 19271(d) defines hardship to mean a collection action that would cause undue financial hardship to the obligated parent, would threaten the health or welfare of the obligated parent or his or her family, or would cause undue irreparable loss to the obligated parent.

HANDBOOK ENDS HERE

- (i) Reserved
- (j) Reserved
- (k) Reserved
- (l) Reserved
- (m) Reserved
- (n) Reserved
- (o) Reserved
- (p) Reserved
- (q) Reserved
- (r) Reserved
- (s) (1) "Suspend Collection Action" -- means that a wage levy, bank levy, or other collection action will remain in effect, but the FTB will not collect from those sources until further instructions are provided by the district attorney.

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- (A) Example 1: To suspend collection action on a bank levy, the FTB informs the financial institution to “freeze” an account for the amount of the levy. The bank will not withdraw funds from that account until it receives instructions from the FTB, and the noncustodial parent cannot withdraw the frozen funds.
- (B) Example 2: To suspend collection action on a wage levy, the FTB informs the employer that the wage levy is enforceable, but wages should not be withheld until the employer is provided with further instructions from the FTB.

HANDBOOK ENDS HERE

- (t) Reserved
- (u) Reserved
- (w) Reserved
- (x) Reserved
- (y) Reserved
- (z) Reserved

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11350.6, Welfare and Institutions Code; 45 CFR 302.12; and Sections 19271 and 19271.5(a), Revenue and Taxation Code.

12-505	GENERAL REQUIREMENTS	12-505
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- .1 District attorneys must refer child support cases to the FTB Child Support Collection Program for collection in accordance with the provisions of Section 12-510.
- .2 District attorneys who apply for, and are granted an exemption from participating in the FTB Child Support Collection Program pursuant to Section 19271(k) of the Revenue and Taxation Code are not subject to any of the requirements of Chapter 12-500, et seq.
- .3 The county district attorney shall exchange program information with the FTB in the manner agreed to by the FTB and the district attorney.
- .4 The district attorney shall distribute all collections received from the FTB Child Support Collection Program in accordance with Sections 12-101, 12-108, and 12-225.
- .5 Following the referral of a case to the FTB, a district attorney shall continue to be responsible for complying with state and federal Title IV-D Child Support Program requirements.
- .6 A district attorney may withdraw a case referred to the FTB when the conditions specified in Section 12-510.3 or Section 12-510.4 exist.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: 45 CFR 303 et seq.; and Sections 19271 and 19272(c), Revenue and Taxation Code.

12-510	CASE SUBMISSION STANDARDS	12-510
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- .1 The district attorney must refer any Title IV-D case which meets the following criteria:
 - .11 Payment due has not been received following the expiration of 90 days from the date payment is due.

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- .111 As referenced in 45 CFR 303.6 and Section 12-107 where partial payments are addressed, the time frame for counting the 90 days would begin when an amount equal to at least one month's support is delinquent.
- .112 As referenced in Section 12-510.52, current FTB policy requires district attorneys to submit balance updates at least monthly.

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12-510	CASE SUBMISSION STANDARDS	12-510
	(Continued)	

- .12 If there is a child support delinquency at the time the case is opened by the district attorney, the case shall be referred to the Franchise Tax Board no later than 90 days after the receipt of the case by the district attorney.
- .13 The case does not meet the exemption criteria specified in Section 12-510.3 or Section 12-510.4.
- .2 The district attorney may refer any Title IV-D case which meets the following criteria:
 - .21 The case contains a child support order and either of the following:
 - .211 The case contains a child support obligation that is 30 days or more past due; or
 - .212 The case is not delinquent, subject to the restrictions of Section 19271.5 of the Revenue and Taxation Code.
- .3 A district attorney shall not refer delinquent cases that conform to the provisions of Revenue and Taxation Code Section 19271(e)(3).

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- .31 Revenue and Taxation Code Section 19271(e)(3) states that the district attorney shall not refer or the FTB collect on delinquent cases referred to the FTB Child Support Collection Program if the following conditions exist: 1) a court has ordered an obligor to make scheduled payments on a child support arrearages obligation and 2) the obligor is in compliance with a judgement or order for support as defined in Section 12-501.2(c)(1).

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- .4 A case that meets the criteria specified in Section 12-510.1 need not be referred to FTB if any of the following conditions exist:
 - .41 An earnings assignment order or a notice of assignment has been served on the obligated parent's employer and court-ordered support is being paid pursuant to the earnings assignment order or the notice of assignment, or at least 50 percent of the obligated parent's earnings are being withheld for support.
 - .42 A jurisdiction outside this state is enforcing the support order.

12-510	CASE SUBMISSION STANDARDS (Continued)	12-510
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- .5 After referring a case, the district attorney shall provide the FTB with balance updates in accordance with the FTB's criteria for submitting that information specified in the "Child Support Collection Program County Minimum Requirements."

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- .51 Current FTB policy requires that, subsequent to the referral of a case, a district attorney shall notify the FTB within two working days of becoming aware of a case balance decrease of 25 percent, or \$1,000, whichever is greater.
- .52 Current FTB policy requires district attorneys to submit balance updates at least monthly.

HANDBOOK ENDS HERE

12-510	CASE SUBMISSION STANDARDS (Continued)	12-510
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NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 11350.6, Welfare and Institutions Code; Sections 19271(a) and (e) and 19271.5, Revenue and Taxation Code; and Section 4722(a), Family Code.

12-515	COMPLAINTS	12-515
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- .1 When the FTB or a noncustodial parent contacts the district attorney pertaining to a noncustodial parent's complaint that he/she conforms to the provisions of Section 12-510.3, the district attorney shall take the following action(s):
 - .11 If the district attorney is unable to determine whether the conditions of Section 12-510.3 are met within one working day, the district attorney shall immediately notify the FTB to temporarily suspend collection action on the case until further instructions are provided.
 - .12 If the complaint is determined to be valid, the district attorney shall notify the FTB to cease all collection action and immediately return the case.
- .2 If a noncustodial parent requests relief from collection of his or her support obligation through the FTB Child Support Collection Program because of a claim of hardship, the district attorney shall review the case and make a determination on the hardship claim as follows:
 - .21 The burden of producing evidence in support of a claim of hardship shall be on the noncustodial parent.
 - .22 Upon initial contact from the noncustodial parent, the district attorney shall inform him or her of the following:
 - .221 That the noncustodial parent is responsible for providing any documentation, if requested, that is necessary for the district attorney to make a hardship determination; and
 - .222 That the claim of hardship may be denied if documentation requested by the district attorney is not provided within a reasonable time, not to exceed 15 days of the date of the request.
 - .23 The noncustodial parent shall be informed that the district attorney will attempt to make a determination concerning the claim of hardship within five working days of receipt of the claim and the requested documentation, and that the five-day time frame begins upon the district attorney's receipt of the requested documentation.

12-515	COMPLAINTS (Continued)	12-515
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- .24 To make a determination about a claim of hardship, the district attorney shall:
- .241 Review documentation provided by the noncustodial parent.
 - .242 Consider the examples of circumstances evidencing hardship provided in Family Code Section 4071.
- .25 If the district attorney cannot make a determination of the claim of hardship within five working days of receiving documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action until further notice. (See definition of “Suspend Collection Action” at Section 12-501.2(s)(1).)
- .26 The district attorney shall make a determination on a claim of hardship, in compliance with Section 706.075 of the Code of Civil Procedure, within 15 days of receiving the claim and the requested documentation, or the district attorney must withdraw the case from the FTB Child Support Collection Program until such time that the hardship determination is made.
- .261 If a delay of a determination of a claim of hardship is due to the noncustodial parent’s failure to provide the requested documentation, the district attorney may proceed with collection action on the case.
 - .262 If it is determined that a hardship exists, the district attorney may withdraw the case, notify the FTB to reduce the amount of money being withheld through a wage levy, and/or reduce the amount of money to be withheld from a lump sum levy.
 - (a) The FTB shall be informed of the hardship determination and any changes in collection action within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.26, whichever occurs first.
 - .263 The noncustodial parent shall be notified in writing of the results of the district attorney’s determination within 15 working days of that determination.
 - (a) The notice shall include information concerning the noncustodial parent’s right to seek a review of the district attorney’s determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.
- .3 If a noncustodial parent challenges the referral of his or her case to the FTB Child Support Collection Program because of a dispute about the existence of, or the amount of, a past due balance, the district attorney shall make a determination about the disputed balance in accordance with the following:

12-515	COMPLAINTS (Continued)	12-515
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- .31 The burden of producing evidence concerning a disputed balance shall be on the noncustodial parent.
- .32 Upon initial contact from the noncustodial parent, the district attorney shall inform him or her of the following:
- .321 That the noncustodial parent is responsible for providing any documentation or proof of payment, if requested, that is necessary for the district attorney to make a determination about the disputed balance; and
- .322 That the challenge to the existence of, or the amount of, a past due balance may be denied if documentation requested by the district attorney is not provided within a reasonable time, not to exceed 15 days from the date of the request.
- .33 The noncustodial parent shall be informed of the following:
- .331 That the district attorney will attempt to make a determination about the existence of, or the amount of, a past due balance within five working days of receipt of the claim and the requested documentation or proof of payment; and
- .332 That the five-day time frame begins upon the district attorney's receipt of the requested documentation.
- .34 To make a determination about the existence of, or the amount of, a disputed balance, the district attorney shall review documentation provided by the noncustodial parent and review the noncustodial parent's case file payment history.
- .341 If the district attorney cannot determine whether a past due balance exists within five working days of receipt of documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action until further notice. (See definition of "Suspend Collection Action" at Section 12-501.2(s)(1).)
- (a) The district attorney shall make a determination concerning the disputed past due balance, in compliance with Code of Civil Procedure Section 706.075, within 15 days of initial contact from the noncustodial parent and receipt of all requested documentation, or the district attorney must withdraw the case from the FTB Child Support Collection Program until such time that a determination is made concerning the disputed past due balance.
- (b) If it is determined that no past due balance exists, the district attorney shall immediately withdraw the case from the FTB Child Support Collection Program.

12-515	COMPLAINTS (Continued)	12-515
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- .342 If the district attorney cannot make a determination about a disputed portion of a past due balance within five working days of receipt of documentation from the noncustodial parent, the district attorney shall advise the FTB to suspend collection action on the disputed amount until further notice. (See definition of “Suspend Collection Action” at Section 12-501.2(s)(1).)
- (a) Within 15 days of initial contact from the noncustodial parent and receipt of all requested documentation, the district attorney shall make a determination concerning the disputed portion of a past due balance, or the district attorney must notify the FTB of a decrease in the past due balance proportionate to the disputed balance amount by the last day of the 15-day time frame.
- (b) If it is determined that the past due balance is less than the balance amount referred to the FTB, the district attorney shall inform the FTB of the balance decrease within five working days of the date of the determination, or by the last day of the 15-day time frame defined at Section 12-515.342(a), whichever occurs first.
- .35 If a determination concerning the existence of, or the amount of, a disputed balance is delayed due to the noncustodial parent’s failure to provide requested documentation or proof of payment, the district attorney may proceed with collection action on the case.
- .36 The noncustodial parent shall be notified in writing of the results of the district attorney’s determination within 15 working days of that determination.
- .361 The notice shall include information concerning the noncustodial parent’s right to seek a review of the district attorney’s determination in court, and shall include information pertaining to any time limits within which a request for review must be filed with the court.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: 45 CFR 303.72; Section 19271, Revenue and Taxation Code; Section 12419.5, Government Code; Sections 706.051 and 706.075, Code of Civil Procedure; and Section 4071, Family Code.

12-520	OVER COLLECTIONS	12-520
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- .1 If a collection occurs in excess of the past due balance amount, and state and federal support distribution requirements are satisfied, the district attorney shall reimburse the over paid amount to the noncustodial parent.
- .11 The reimbursement shall be issued within 15 working days of the day the district attorney determined the amount due the noncustodial parent.
- .12 When an over collection is refunded to the noncustodial parent and is returned by the post office as undeliverable, the district attorney shall:
- .121 Attempt to find a current address through standard locate sources.
- .122 Deposit and retain the undeliverable over collection in a trust fund until one of the following occurs:
- (a) The location of the noncustodial parent becomes known to the district attorney and the amount of the over collection is refunded to the noncustodial parent; or
- (b) The undeliverable over collection has remained in the trust fund for three years.

NOTE: Authority cited: Sections 10553, 10554, 11475, and 11479.5, Welfare and Institutions Code. Reference: Section 50050, Government Code.

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CHAPTER 12-600 REAL PROPERTY LIENS**12-601 DEFINITIONS****12-601**

- .1 Definitions of terms used in these regulations, which are common to the Child Support Enforcement Program, are found in MPP Section 12-701.
- .2 When used in these regulations, unless the context otherwise indicates:
 - a. (Reserved)
 - b. (Reserved)
 - c. (Reserved)
 - d. (Reserved)
 - e. (Reserved)
 - f. (Reserved)
 - g. (Reserved)
 - h. (Reserved)
 - i.
 - (1) Initiating cases -- means those cases in which the county commences the child support action.
 - (2) Intercounty cases -- means those cases in which more than one California county is involved in the support action.
 - (3) Interstate cases -- means those cases in which more than one state is involved in the support action.
 - (4) Intracounty cases -- means those cases in which only one jurisdiction within a state or a single county is involved in the support action.
 - j. (Reserved)
 - k. (Reserved)

12-601	DEFINITIONS (Continued)	12-601
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- l. Lien -- means a charge or encumbrance on real property.
- m. (Reserved)
- n. (Reserved)
- o. (Reserved)
- p. (Reserved)
- q. (Reserved)
- r. Responding cases -- means those cases in which the county receives the child support action for purposes of enforcement.
- s. (Reserved)
- t. (Reserved)
- u. (Reserved)
- v. (Reserved)
- w. (Reserved)
- x. (Reserved)
- y. (Reserved)
- z. (Reserved)

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Section 303.103.

12-602	GENERAL REQUIREMENTS	12-602
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- .1 Each district attorney shall record all support orders/judgments to create liens against real property.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

12-603	CASES TO BE RECORDED	12-603
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- .1 The district attorney shall create a real property lien in the following types of cases:

- .11 Intracounty cases;
- .12 Intercounty responding cases;
- .13 Interstate responding cases; and
- .14 Interstate initiating cases.

- .141 Liens shall be created in these cases only if the absent parent is known to have, or is likely to acquire, real property interests in California.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

12-604	WHEN TO RECORD	12-604
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- .1 The district attorney shall create a lien at the time that each new order, or modification to an existing order, is entered.
- .11 Liens in existing cases shall be created as the cases are processed by the district attorney.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

12-605	WHERE TO RECORD	12-605
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- .1 The district attorney shall record real property liens:
 - .11 In the county in which the absent parent resides;
 - .12 In the county in which the absent parent's parent(s) reside, if known and different from the absent parent's county; and
 - .13 In any other county in which the absent parent is known to have, or could reasonably be expected to acquire, real property.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: 45 CFR Sections 303.103 and 305.52 and Section 697.320, California Code of Civil Procedure.

12-606	WHAT TO RECORD	12-606
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- .1 The district attorney shall record one of the following:
 - .11 An abstract of support judgment or
 - .12 A certified copy of the judgment.
- .2 All liens shall be extended and re-recorded unless the judgment is satisfied or the judgment lien is released.

NOTE: Authority cited: Section 11475, Welfare and Institutions Code. Reference: Section 697.320, California Code of Civil Procedure.

**CHILD SUPPORT PROGRAM
FTB INTERCEPT REGULATIONS**

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**CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND INTERNAL REVENUE
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**CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND INTERNAL REVENUE SERVICE (IRS)
TAX REFUND INTERCEPT REGULATIONS****12-701 DEFINITIONS****12-701**

When used in these regulations, unless the context otherwise indicates:

- a. (1) Absent parent -- means any individual who is absent from the home and who is legally responsible for providing financial support for a dependent child.
- (2) Affidavit -- means a sworn statement in writing made under oath or an affirmation before an authorized officer.
- (3) Arrearages -- means unpaid child support payments for past periods owed by a parent who is obligated by court order to pay.
- (4) Assignment of Support Rights -- means an AFDC eligibility requirement whereby all applicants/recipients must assign to the state all rights to support paid in their behalf or in behalf of a dependent child for whom assistance is sought or paid.
- b. Reserved
- c. (1) Certify -- means to vouch formally under penalty of perjury for the accuracy of facts by a signed writing.
- (2) Child Support -- means a legally enforceable obligation assessed against an individual for the support of a dependent child.
- (3) Custodial Parent -- means the person with legal custody under a court order.
- d. (1) District Attorney -- means the single organization unit located in the office of the district attorney (County Family Support Division) in each California county charged with the responsibility for enforcement of support orders.
- e. Reserved
- f. (1) Franchise Tax Board (FTB) -- means the state government agency in California responsible for collecting state income taxes.
- g. Reserved
- h. Reserved
- i. (1) Initiating State -- means the state in which a Uniform Reciprocal Enforcement of Support Act (URESA) proceeding is commenced and where the absent or custodial parent is located.

12-701	DEFINITIONS (Continued)	12-701
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- (2) Intercept -- means an amount of money taken from an obligated parent's state or federal income tax refund to satisfy a child support debt.
- (3) Intercounty Cases -- means those cases in which another California county is involved in the tax intercept either as the submitting county or the county where the child support order was issued.
- (4) Internal Revenue Service (IRS) -- means the federal government agency responsible for collecting federal income taxes.
- (5) Interstate Cases -- means those cases in which another state is involved in the tax intercept either as the submitting state or the state where the child support order was issued.
- j. Reserved
- k. Reserved
- l. Reserved
- m. Reserved
- n. Reserved
- o.
 - (1) Obligation -- means the amount of money to be paid as support by the absent or custodial parent pursuant to the terms of the court order.
 - (2) Order -- means a direction of a magistrate, judge, or properly empowered administrative officer to a person, made or entered in writing.
- p. Reserved
- q. Reserved
- r.
 - (1) Registration -- means a procedure set up by state law to adopt a judgment of a foreign jurisdiction as if it were from a California court. This procedure is used to enforce the foreign judgment in California.
 - (2) Responding State -- means a state receiving and acting on an interstate child support case.

12-701	DEFINITIONS (Continued)	12-701
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- s. (1) Spousal Support -- means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.
- t. (1) Title IV-D or IV-D -- of the Social Security Act (Sections 451, 452, 453, 454, 457, and 460) means that portion of the federal law establishing and prescribing the Child Support Enforcement Program.
- u. (1) Uniform Reciprocal Enforcement of Support Act (URES A) -- means a uniform law that sets forth reciprocal legislation concerning the enforcement of support between the states.
- v. Reserved
- w. Reserved
- x. Reserved
- y. Reserved
- z. Reserved

12-702	GENERAL REQUIREMENTS	12-702
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- .1 Each district attorney shall submit annually to SDSS a list of all eligible cases.
- .2 Eligible cases shall be submitted as prescribed by SDSS in Manual of Policies and Procedures Sections 12-703 and 12-704.
- .3 The district attorney shall conduct an annual review to determine which cases require a social security number to qualify for tax refund intercept.
- .4 When necessary for submission, the district attorney shall obtain the obligor's social security number within 180 days from the date the case is identified as being deficient. Whenever a district attorney has exhausted all available resources and the social security number is still unavailable, the district attorney shall document all actions taken in the case file.

12-703	FTB ELIGIBILITY REQUIREMENTS	12-703
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- .1 Eligible cases shall meet the following minimum requirements:
- .11 The case shall contain a child support order established by a court of competent jurisdiction. Orders originating outside California must be registered by the submitting district attorney.
- .12 IV-D welfare and nonwelfare cases are eligible.
- .121 Welfare cases shall include an assignment of support rights.

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- .122 Nonwelfare IV-D cases do not require an assignment of rights; however, the district attorney will obtain a copy of the payment record and/or an affidavit signed by the custodial parent attesting to the amount of support owed.

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- .13 The case shall contain a delinquent child support obligation of at least \$100.
- .131 Welfare and nonwelfare arrearages cannot be combined for a \$100 minimum arrearage.
- .132 The arrearage for welfare IV-D cases shall include all monies owed to the certifying district attorney.
- .133 The arrearage for nonwelfare IV-D cases shall include overdue child support and any other related costs included in the court order.

12-704	IRS ELIGIBILITY REQUIREMENTS	12-704
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- .1 Eligibility for IRS intercept shall meet the following requirements:
- .11 The Title IV-D agency shall have an assignment of support right as established in Section 402(a)(26) of the Social Security Act.
- .111 A case shall contain a delinquent amount of child support established by a court of competent jurisdiction or an administrative process.
- .112 The county is responsible for enforcing the child support obligation.
- .113 Title IV-D welfare and nonwelfare cases are eligible.
- .114 Interest charges may be included in the amount certified for offset by the IRS.
- .12 Both AFDC and non-AFDC cases shall be submitted to the IRS and all welfare cases shall include an assignment of support rights.

12-704	IRS ELIGIBILITY REQUIREMENTS (Continued)	12-704
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- .13 Title IV-D AFDC (welfare) case eligible requirements:
 - .131 The amount submitted is not less than \$150 and the support has been delinquent for at least three months or longer.
 - .132 In AFDC cases spousal support can be included into the amount submitted only when a single order exists for both spousal and child support.
- .14 Title IV-D non-AFDC (nonwelfare) case eligible requirements:
 - .141 The support obligation amount due is owed to a minor or a person acting on his/her behalf.
 - .142 The total amount submitted is not less than \$500.
 - .143 The county shall review its records to determine if a nonwelfare case in arrears also has a welfare case with arrearage.
 - .144 Spousal support is not eligible for certification and all orders which included spousal support shall be adjusted to exclude spousal support.
- .15 If the submitting county cannot verify the amount owed using a copy of the payment records, the custodial parent shall sign an affidavit attesting to the amount of the child support arrears.
- .16 The Title IV-D agency shall retain a copy of all pertinent child support orders. In non-AFDC cases the county shall obtain the custodial parent's current address.
- .17 Before submitting essential case information, the name and social security number of the absent parent and arrears owed shall be verified as correct by the county district attorney.

12-705	UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (URES A) SUBMISSIONS	12-705
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- .1 District attorneys must submit all URES A cases meeting the eligibility requirements of Section 12-703.
 - .11 Intercounty Cases
 - .111 The URES A responding jurisdiction shall not submit eligible cases.

12-705	UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (URES A) SUBMISSIONS (Continued)	12-705
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- .112 The URES A initiating jurisdiction shall submit all eligible cases.
- .12 Interstate Cases
 - .121 The URES A responding jurisdiction shall submit all eligible cases.
 - .122 The URES A initiating jurisdiction may submit all eligible cases if there is reason to believe the absent parent may file a California State Income Tax Return.
- .2 If an intercept is received, the submitting jurisdiction shall notify the other jurisdiction of the collection.

12-706	INTERSTATE SUBMISSIONS	12-706
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- .1 The IRS Tax Refund Intercept Program is a federal enforcement program; therefore, registration of another state's court order in a California court is not required prior to submission to IRS.

HANDBOOK ENDS HERE

- .2 AFDC Cases
 - .21 In intercept cases, only a county that has an assignment of support rights shall request collection by IRS refund offset.
 - .22 When a county is the submitting jurisdiction, it shall inform the responding jurisdiction of the submission and advise the responding jurisdiction when a collection is received.
 - .23 If a county submits a case for offset based on another state's child support order, the county shall comply with the other state's laws regarding tax offset.
 - .24 The URES A pre-offset notification shall be issued by SDSS.
 - .241 The counties shall submit Uniform Reciprocal Enforcement of Support Act (URES A) initiating cases on IRS submission tapes/list.

12-706	INTERSTATE SUBMISSIONS (Continued)	12-706
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- .242 The notification shall include responding jurisdiction Federal Information Processing Standards (FIPS) code information.
 - .3 Non-AFDC Cases
 - .31 The jurisdiction with the court order or the jurisdiction where the custodial parent applies for services shall submit the certified arrearage to the IRS, but not both.
 - .32 Jurisdiction involved in the same case shall coordinate to certify an arrearage and submit the case only once.
 - .33 The submitting jurisdiction shall notify the other state's agency, that a case has been submitted to the IRS for non-AFDC cases.
 - .331 If an offset is received, the submitting county is responsible and shall notify the other state's agency of the collection.
 - .34 The case need not be a URESA case, but the FIPS code will be used like a URESA notification in order to report the submitted case information to the other state's agency.
 - .341 The court order does not have to be a California order.
 - .4 Interstate Submission/URESAs
 - .41 When a responding jurisdiction dismisses the court order and the case is closed, the court-order arrearage which accumulated before the dismissal shall be submitted for federal tax refund intercept if it still satisfies the eligibility requirement. The court order is valid up to the date of dismissal.

12-707	CERTIFICATION	12-707
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- .1 District attorneys shall ensure that requests for tax refund intercepts are submitted properly and contain correct information identifying the absent parent and the amount of delinquency.
- .2 District attorneys shall complete and sign a statement certifying under the penalty of perjury the accuracy of the information submitted.

12-708	SUBMISSION CRITERIA FOR AFDC-FC CASES AND STATE-ONLY AIDED CASES	12-708
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- .1 All AFDC Foster Care (FC) cases shall meet the following submission requirements:
 - .11 The arrearage amount submitted shall not include any arrearage beyond the last full month prior to certification of the case.
 - .12 All federal FC cases with arrearages will be submitted.
 - .121 State-only and county-only FC cases with arrearages shall only be submitted as non-AFDC IRS Tax Refund Intercept Program cases.
 - .13 Assigned arrearages accrued before going on aid shall be included into the AFDC-FC arrearage certification.
 - .14 For cases which go on and off aid, all arrearages shall be assigned through the last month aid is collected.
- .2 All non-Federal Unemployed (aid code 33) cases and non-Federal Family Group (aid code 32) cases shall be submitted as non-AFDC IRS Tax Refund Intercept Program cases.

12-709	INTERCEPT WARNING NOTICE TO ABSENT PARENTS	12-709
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- .1 Absent parents will be notified by SDSS prior to intercept that his/her name will be referred for FTB and/or IRS tax interception.
 - .11 The Child Support Warning Notice (DPS 236) will contain, at a minimum, the following information:
 - .111 The certified arrearage amount submitted by the district attorney to the Franchise Tax Board.
 - .112 The name, address, and phone number of the county submitting the individual to be intercepted.
 - .113 The absent parent's right to contest the referral and request an administrative review within 30 days from the date of notice (see Section 12-712 for complaint procedure).

HANDBOOK CONTINUES

12-709	INTERCEPT WARNING NOTICE TO ABSENT PARENTS (Continued)	12-709
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HANDBOOK CONTINUES

- .114 Possible reasons for disagreeing with the action such as no support judgment has been entered against you (absent parent), the support amount(s) shown as past due is incorrect.

HANDBOOK ENDS HERE

- .2 If SDSS does not have an address for a submission, the notice will be sent to the submitting district attorney for manual addressing. The district attorney shall return the notice to SDSS as soon as possible for mailing.
- .21 If a district attorney does not have any address information for an absent parent, the district attorney shall delete the absent parent's name from the intercept submission list.
- .3 In cases in which the intercept warning notices are returned as undeliverable by the post office, the district attorney shall attempt to identify a more current address and return the notice to SDSS for mailing.
- .31 If a more current address is not available, the notice and envelope shall be placed in the case file and the file annotated to document the attempt to mail.
- .32 Notices that are undeliverable due to clerical or typographical errors shall be corrected by the district attorney and returned to SDSS for remailing.
- .33 Cases in which all attempts to notify the absent parent have been made but are unsuccessful shall not be deleted from the intercept process.

12-710	UPDATES	12-710
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- .1 District attorneys shall update individual case arrearage amounts and submit the updates to SDSS at least monthly when the certified arrearage amount has been reduced by any amount during that month.
- .2 Updates shall be submitted in a manner prescribed by SDSS.
- .3 Arrearage amounts submitted to the IRS shall be permitted to be modified.
- .31 Modification is the adjustment of the original arrearage downward to a lesser amount or zero (-0-).

12-711	DISTRIBUTION OF COLLECTIONS	12-711
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HANDBOOK BEGINS HERE

- .1 Intercepted refunds are forwarded to the district attorneys by SDSS.

HANDBOOK ENDS HERE

- .11 When a county receives a collection, the intercepted funds shall be distributed as follows:
- .111 AFDC cases with federal participation,
 - .112 State-only aided cases,
 - .113 County-only aided cases, and
 - .114 Nonwelfare cases.
- .12 When two or more counties receive a collection for the same taxpayer, the intercepted funds shall be distributed as follows:
- .121 First to the county with the largest welfare arrearages.
 - .122 Then to the county with less welfare arrearages until all welfare arrears are satisfied.
 - .123 Then to the county with the largest certified nonwelfare arrearage.
- .2 District attorneys shall apply the collections to the original certified arrearage.
- .3 Welfare arrearages shall be satisfied before intercept collections are applied to nonwelfare arrearages.
- .4 If the amount collected and forwarded to a district attorney exceeds the original certified arrearage, that district attorney shall research the statewide master file for additional certified arrearages in other counties.
- .41 If an additional certified arrearage exists in another county, the county shall:

12-711	DISTRIBUTION OF COLLECTIONS (Continued)	12-711
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- .411 Confirm the obligation,
- .412 Notify the absent parent, and
- .413 Transfer the money to the other county(ies).

HANDBOOK BEGINS HERE

- .42 If there are no additional certified arrearages but the absent parent has accumulated an additional uncertified arrearage, the district attorney may negotiate with the absent parent to apply excess amounts intercepted to the uncertified arrearage. If negotiations with the absent parent fail, the district attorney may take further legal action as allowable by law to retain and apply the funds to the uncertified arrearage.

HANDBOOK ENDS HERE

12-712	ADMINISTRATIVE REVIEW PROCEDURES	12-712
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- .1 If an absent parent challenges an intercept submission within 30 days after receipt of the "Child Support Warning Notice" (DPS 236) or within 15 days after receipt of the "Offset Notice" (DPS 245), the submitting district attorney shall attempt to resolve the dispute.
- .2 The submitting district attorney shall first complete an informal review to attempt to resolve the complaint. The informal review procedure is as follows:
 - .21 The district attorney shall:
 - .211 Review all necessary legal documents and proof of payment from the absent parent.
 - .212 If an intercept notice has been received, attempt to obtain a copy of the notice from the absent parent.
 - .213 Audit its records and report the findings to the absent parent in writing. Written findings shall inform the absent parent of the right to a formal review as provided in Section 12-712.3.
 - .214 Document case records with all actions and findings of such audit.

12-712	ADMINISTRATIVE REVIEW PROCEDURES (Continued)	12-712
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- .215 If an error was detected, the district attorney shall:
- (a) Correct all records, accounts receivable, and automated systems.
 - (b) Submit an update to FTB within five working days. For IRS updates, submit to SDSS within five working days.
 - (c) If a tax refund intercept has already been made, the district attorney shall promptly return any excess money intercept to the absent parent (see Section 12-713, Instructions for Returning Excess Intercepts).
- .3 If the dispute was not resolved by the informal review, the submitting district attorney must conduct a formal administrative review. The administrative review procedures are as follows:
- .31 The district attorney shall:
- .311 Provide the absent parent with a written notice for requesting a formal administrative review. The notice shall be provided by SDSS. District attorneys may substitute their own upon approval by SDSS.
 - .312 Upon receipt of the request, notify the absent parent in both AFDC and non-AFDC cases, and also the custodial parent in non-AFDC cases, of the time and place where the review will be conducted in the county. The review may be done either in person or by telephone, if requested by the absent parent.
 - .313 Consider all new information and documentation to determine if deletions or modifications are to be made.
 - .314 Report deletions or downward modifications necessary as a result of an administrative review to FTB using the standard update format and mailed no later than one day after the decision is made.
 - .315 Promptly notify the absent parent of the results of the formal review in writing and return any erroneously intercepted money to the absent parent (see Section 12-713, Instructions for Returning Excess Intercepts).

12-712	ADMINISTRATIVE REVIEW PROCEDURES (Continued)	12-712
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.4 Interstate cases

- .41 "Interstate" cases are those in which another state is involved in the tax intercept.
- .42 The submitting California district attorney's office shall first attempt to resolve complaints on interstate cases following the procedures outlined in Sections 12-712.1 and .2.
- .43 If the California district attorney is unable to resolve the complaint and/or the absent parent requests an administrative review in the other state, the California district attorney shall transfer the case using the following procedures:
 - .431 The California district attorney shall:
 - (a) Notify the other state of the request for review using an approved SDSS form.
 - (b) Provide the other state with the following information within ten working days of the request:
 - (1) Copy of the order and any modifications.
 - (2) Copy of the payment record or the custodial parent's affidavit.
 - (3) Custodial parent's address.
 - (4) Evidence of assignment or nonwelfare application.
 - (5) The issues of the review, including the absent parent's position and the district attorney's position.
 - (6) The certified arrearage (not the current arrearage). If there are cumulative orders which serve as the basis for the submission, it should be clearly indicated that the former state need only verify a portion of the amount submitted for intercept.

12-712	ADMINISTRATIVE REVIEW PROCEDURES (Continued)	12-712
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HANDBOOK BEGINS HERE

.432 The other state will be responsible for:

- (a) Notifying the absent parent in both AFDC-FC and non-AFDC cases (and also the custodial parent in non-AFDC cases) of the time and the place of the review.
- (b) Conducting the review.
- (c) Making a decision within 45 days of receipt of the California district attorney notice and case information.
- (d) Notifying the submitting California district attorney of its decision.

HANDBOOK ENDS HERE

.433 The submitting California district attorney shall be bound by the decision of the state conducting the review.

.44 If an intercept has occurred, the submitting California district attorney shall promptly refund any excess money intercepted to the absent parent (see Section 12-713, Instructions for Returning Excess Intercepts).

.5 If the administrative review process fails to resolve the dispute, the absent parent may take further legal action as allowed by law.

12-713	INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS	12-713
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.1 Before returning offset money, the statewide IRS master file shall be checked to assure the taxpayer appears on the list and to identify any obligation in another county.

.11 If the taxpayer is not listed, the county shall contact the SDSS Systems Unit. If the taxpayer is listed for another county(ies), the county shall contact the other county(ies) regarding intercept transfer arrangements.

.111 The county shall send the taxpayer a letter advising him/her of the transfer.

12-713	INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS (Continued)	12-713
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- .2 If there are no additional certified or uncertified arrearages in other counties, district attorneys shall refund excess monies intercepted to the absent parent within 15 working days from the day the excess intercept was identified, regardless of whether or not the district attorney has received the intercepted funds.
- .3 When excess intercepted monies which are refunded to the taxpayer by a district attorney are returned by the post office as undeliverable, the county shall:
 - .31 Research available county records for another address, using IRS address information whenever possible, and remail the refund if another address is available.
 - .32 Retain and not return the undeliverable monies to FTB or IRS.
 - .33 Deposit the over offset money into a special fund if a better address is not available.
 - .34 Hold monies for at least three years before disposition from the special fund.
- .4 The amount of money returned will never exceed the amount certified by the county, or the amount indicated on the offset notice, whichever is less, unless the county is notified in writing of an additional payment through an IRS Overoffset Collection Report.
- .5 All monies returned to the taxpayer shall be paid in accordance with the name(s) of the offset notice.

12-714	IRS OFFSET FEES	12-714
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- .1 The county shall pay an offset fee for AFDC and non/AFDC offsets. the county's share of the offset fee shall be deducted from the county's administrative advance.
 - .11 The amount billed shall be based upon the number of offsets received each month by individual counties and the current IRS charge per offset.
 - .12 The county shall claim monthly fee charges on the quarterly Title IV-D Child Support Expenditure Schedule and Certification claim form (CS 356.1 (11/85)).

12-715	SUBMISSION AUDITS	12-715
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- .1 Ten percent (10%) of the cases submitted for offset shall be reviewed annually by the counties. If findings warrant, an additional ten percent shall be reviewed. If the problem continues to occur, the sample shall be expanded to address all submissions.

12-716	JOINT IRS RETURNS	12-716
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- .1 All joint IRS returns and community property complaints concerning IRS tax refund intercepts shall be referred to the local IRS office.

12-717	NEGATIVE IRS ADJUSTMENTS	12-717
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- .1 If a county has made a refund to the taxpayer and has notified SDSS of this, OCSE shall inform IRS which will then notify the nonobligated spouse that no adjustment will be made.
- .2 If the county has made no payment or partial payment to the taxpayer, IRS will proceed to make the appropriate refund to the nonobligated spouse and adjust the state's account. The adjustment will be passed on to the appropriate county(ies).

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**CHILD SUPPORT PROGRAM
COMPLIANCE AND SANCTIONS**

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CHAPTER 12-800 COMPLIANCE AND SANCTIONS

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CHAPTER 12-800 COMPLIANCE AND SANCTIONS**12-801 GENERAL****12-801**

- .1 Pursuant to the provisions of Welfare and Institutions Code Section 10605, as described in the handbook material in this chapter, and to the provisions of this chapter, the Director shall have the authority to take specified administrative and/or judicial actions if he/she believes that a county is substantially failing to comply with any provision of the Welfare and Institutions Code or any regulation pertaining to any program administered by the Department, and he/she determines that formal action may be necessary to secure compliance.

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- .2 The compliance proceedings described in this chapter are in addition to the Director's power to bring an action for writ of mandamus or such other judicial action as may insure that there is no interruption in the provision of benefits to any eligible person under the provisions of the Welfare and Institutions Code or the regulations of the Department.

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12-802 NOTICE OF NONCOMPLIANCE**12-802**

- .1 Upon determination of the necessity for formal action to secure compliance, the Director shall provide notice of the noncompliance to the county.
- .11 The notice shall conform to the requirements of Welfare and Institutions Code Section 10605.

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- .111 The following portion of Welfare and Institutions Code Section 10605 relates to noncompliance notices:

"If the director believes that a county is substantially failing to comply with any provisions of this code or any regulation pertaining to any program administered by the Department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations."

HANDBOOK ENDS HERE

- .12 The notice shall contain the following information in addition to that specified in Section 12-802.11:

- .121 A citation of the statute or regulation with which the Director has determined the county is not in compliance.
- .122 A statement of facts which supports such determination.

12-803	COUNTY ACTION UPON RECEIPT OF NOTICE OF NONCOMPLIANCE	12-803
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- .1 If, upon receipt of the notice, corrective action regarding the noncompliance has been taken, the county shall provide such evidence as may be requested in writing by the Director in order to establish that it has come into compliance as directed by the notice.
- .11 In making such a request, the Director shall allow the county a reasonable period of time, not less than the remainder of the period specified in the notice of noncompliance, in which to provide such evidence.
- .2 If the county chooses to provide written reasonable assurances that it will be in compliance in accordance with Welfare and Institutions Code Section 10605 it shall meet the requirements specified in Sections 12-803.211 and .221.

12-803	NOTICE OF NONCOMPLIANCE (Continued)	12-803
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- .21 With regard to reasonable assurances, Welfare and Institutions Code Section 10605 states, in pertinent part, that the county may within the specified time for correction, "...provide reasonable assurances in writing that it will comply within the additional time as the director may allow...".

HANDBOOK ENDS HERE

- .211 Such assurances shall be:
- (A) Signed by the county welfare director.
 - (B) Approved by the county board of supervisors.
- .221 If the county cannot comply within the period specified in the notice, it shall provide the Director with the following information:
- (A) The basis for such inability.
 - (B) The additional time necessary to enable compliance.
- .3 If the county fails to comply with the provisions of Sections 12-803.1 or .2, it shall be subject to the provisions of Section 12-804.

12-804	ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY	12-804
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- .1 If the provisions of Sections 12-803.1 or .2 are not met within the specified time period, the Director shall have the authority to take one or both of the following actions:
- .11 Seek injunctive relief, as specified in Welfare and Institutions Code Section 10605.

12-804	ACTION UPON CONTINUED NONCOMPLIANCE BY A COUNTY	12-804
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(Continued)

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.111 On the subject of injunctive relief, Welfare and Institutions Code Section 10605 states that:

"Any county which is found to be failing in a substantial manner to comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance."

HANDBOOK ENDS HERE

.12 Conduct a compliance hearing, in accordance with Welfare and Institutions Code 10605(b).

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.121 With regard to conduct of compliance hearings, Welfare and Institutions Code Section 10605(b) states, in pertinent part, that the Director may "Order the county to appear at a hearing before the director with the State Social Services Advisory Board Committee on Welfare and Social Services to show cause why the director should not take administrative action to secure compliance. The county hearings shall be conducted pursuant to the rules and regulations of the department."

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12-805	ORDER TO APPEAR	12-805
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.1 The Order to Appear shall contain information including but not limited to the following:

.11 The hearing date, which shall be not less than 30 days after the date of the order.

.12 The hearing location, which shall be in the city in which the principal office of the county welfare department is located, or in such other place as is designated by the Director when necessary for the convenience of the parties or their representatives.

12-805	ORDER TO APPEAR (Continued)	12-805
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- .2 A copy of the order shall be sent to the county board of supervisors.
- .3 The order shall be published in at least one newspaper of general circulation in the county.

12-806	REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING	12-806
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- .1 The county and the Department shall be considered to be parties to the hearing and need not make a specific request to participate.
- .2 The Director shall have the authority to recognize other individuals or groups as parties, if the county noncompliance to be considered has caused them injury and their interest is among those to be protected by the law or regulation in issue.
 - .21 Any individual or group wishing to participate as a party shall file a petition with the Director within ten days after notice of the hearing has been published in accordance with Section 12-805.3, and shall send a copy to the county welfare director and the county board of supervisors.
 - .22 The petition shall concisely state the following:
 - .221 The petitioner's interest in the proceeding.
 - .222 The person who will appear for the petitioner.
 - .223 The issues upon which the petitioner wishes to participate.
 - .224 Whether the petitioner intends to present witnesses.
 - .23 The county shall be permitted to file comments with the Director regarding the petition to participate provided that such comments are submitted within five days of receipt, in accordance with Section 12-806.21, of a copy of the petition.
 - .24 The Director, or the presiding officer, shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly.
 - .241 The Director or presiding officer shall give each petitioner written notice of the decision on his or her petition at least ten days prior to the hearing.
 - .242 If the petition is denied, the notice shall briefly state the grounds for denial.

12-806	REQUESTS TO PARTICIPATE IN THE COMPLIANCE HEARING	12-806
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(Continued)

- .25 Where petitions to participate as parties are made by individuals or groups with common interests, the Director or presiding officer shall have the authority to request all such petitioners to designate a single representative, or to recognize one or more of such petitioners to represent all such petitioners.

12-807	COMPLIANCE HEARING	12-807
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- .1 All parties shall have the following rights during conduct of the hearing:
- .11 To appear by counsel or other authorized representative in all hearing procedures.
- .12 To make opening statements at the hearing.
- .13 To present relevant evidence on the issues at the hearing.
- .14 To present witnesses who then shall be available for cross-examination by the other parties.
- .15 To present oral and/or written arguments at the hearing.
- .2 The presiding officer at the hearing shall be the Director or his designee.
- .21 The presiding officer shall have the following duties:
- .211 To conduct a fair and equitable hearing.
- .212 To avoid delay.
- .213 To maintain order.
- .214 To make a record of the proceedings.
- .22 The presiding officer shall have the following powers:
- .221 To settle or simplify the issues in the proceeding, or to consider other matters that may aid in an expeditious disposition of the proceeding.
- .222 To administer oaths and affirmations.
- .223 To regulate the course of the proceeding and conduct of counsel therein.
- .224 To examine witnesses.

12-807	COMPLIANCE HEARING (Continued)	12-807
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- .3 The members of the State Social Services Advisory Board Committee on Welfare and Social Services shall have the following rights at any time during the proceeding:
- .31 To request that testimony be presented on any issue in dispute.
 - .32 To request that a party explain or clarify any argument, evidence, or other matter which is relevant to the issues in dispute.
 - .33 To examine witnesses.
- .4 The rules of the Evidence Code shall not apply to hearings held pursuant to this chapter, with the exception that the presiding officer shall have the authority to exclude irrelevant, immaterial, or unduly repetitious evidence, and shall exclude evidence which is privileged under the Evidence Code if the privilege is claimed in accordance with law.
- .41 All documents and other evidence offered for or taken for the record shall be open to examination by the parties.
 - .42 Opportunity shall be given to refute facts and arguments advanced on either side of the issues.
- .5 If the department and the county agree to stipulations of fact, such stipulations shall be made part of the record.
- .6 Oral testimony by witnesses at the hearing shall be given under oath or affirmation.
- .7 The issues considered at the hearing shall be limited to those issues of which the county was notified pursuant to Section 12-802.1, unless both the Department and the county agree to consideration of a new issue.

12-808	DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS	12-808
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- .1 No later than 30 days following the hearing, the Director shall render in writing his/her findings and decision on the county noncompliance issues.

12-808	DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued)	12-808
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- .2 The Director's written decision shall contain information including but not limited to the following:
- .21 Whether the county has been found to be in compliance, or to be in noncompliance as cited.
- .22 If the county has been found in noncompliance, whether a sanction is to be invoked, and relevant information regarding the sanction.
- .221 If the Director finds that the original citation of noncompliance is valid, he/she shall have the authority to decide that one of the sanctions specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- (a) Regarding sanctions, Welfare and Institutions Code Section 10605 states, in pertinent part:
- "If the director determines, based on the record established at the hearing and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services, that the county is failing to comply with the provisions of this code or the regulations of the department, ...the director may invoke either of the following sanctions:
- "(1) Withhold all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.
- "(2) Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors."
- (b) It should be further noted that this section requires the county to provide sufficient funds for the continued operation of all programs administered by the Department.

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12-808	DIRECTOR'S FINDINGS AND DECISION, AND SANCTIONS (Continued)	12-808
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- .23 Reference to the county's right to judicial review of the Director's decision, as specified in Welfare and Institutions Code Section 10605 shall be invoked.

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- .231 This code section allows the county to seek judicial review of the Director's decision under Code of Civil Procedure Section 1094.5. This method of review is the exclusive remedy available to review the Director's decision.

HANDBOOK ENDS HERE

- .3 Copies of the decision shall be sent to the following:
- .31 The county welfare director.
- .32 The county board of supervisors.
- .33 Other parties to the hearing, if any.

**CHILD SUPPORT PROGRAM
COMPLIANCE WITH STATE PLAN**

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**CHAPTER 12-900 COMPLIANCE WITH STATE PLAN FOR DETERMINING
PATERNITY, SECURING CHILD SUPPORT, AND ENFORCING SPOUSAL
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**CHAPTER 12-900 COMPLIANCE WITH STATE PLAN FOR DETERMINING
PATERNITY, SECURING CHILD SUPPORT, AND ENFORCING
SPOUSAL SUPPORT ORDERS****12-901 SCOPE****12-901**

This chapter governs the procedure that shall be followed when the Director determines pursuant to Welfare and Institutions Code Section 11475.2 that a public agency, as defined in Section 12-902, is failing to comply with the provisions of the State Plan relating to determining paternity, securing child support, and enforcing existing spousal support orders when enforced in conjunction with a child support obligation. All compliance matters relating to determining paternity, child support, and enforcing spousal support orders shall be subject to the provisions of this chapter rather than the provisions of Chapter 12-800.

12-902 DEFINITION**12-902**

A public agency for the purposes of this chapter is the county district attorney who is required by law, by delegation of the Department, or by cooperative agreement to perform functions relating to the State Plan for determining paternity, securing child support and enforcing spousal support orders when enforced in conjunction with the child support obligation.

12-903 VOLUNTARY CORRECTIVE PROCEDURES**12-903**

When the Director becomes aware of a potential compliance problem under the State Plan for determining paternity, securing child support, and enforcing spousal support, the Director shall initially proceed as follows:

- .1 Where the potential for a compliance problem may exist in a county welfare department, the Director shall contact the county director regarding the potential problem to determine the extent of the problem and what steps the county is taking to avoid or correct it. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall assign Department staff to work with the county director to achieve a voluntary correction of the potential problem.
- .11 If the potential compliance problem relates to county functions carried out under a plan of cooperation with the county district attorney's office, the Director shall also contact the district attorney and request his/her assistance in correcting the problem.

12-903	VOLUNTARY CORRECTIVE PROCEDURES (Continued)	12-903
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- .2 Where the potential for a compliance problem may exist in regard to State Plan functions carried out by a district attorney's office pursuant to a plan of cooperation, the Director may contact the district attorney to determine the extent of the problem, if any. If there is reasonable cause to believe that a potential compliance problem may exist, the Director shall contact the Attorney General's Office in working with the district attorney to achieve a voluntary correction of the potential compliance problem.

12-904	NOTICE OF INTENT TO ENFORCE COMPLIANCE	12-904
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- .1 If the procedures described in Section 12-903 do not result in a voluntary correction of a compliance problem and the Director thereafter finds that the public agency is failing in a substantial manner to comply with any provision of the State Plan for determining paternity, securing child support, and enforcing spousal support, and that sanctions are necessary to secure compliance, the Director shall put such agency on written notice to that effect.
- .2 The notice shall contain:
- .21 A reference to each provision of the State Plan with which the Director considers the public agency to be failing to comply;
- .22 A brief explanation of the Director's reasons for believing that such noncompliance exists;
- .23 A statement regarding which of the sanctions provided in Section 12-906 the Director intends to invoke; and
- .24 The date for which the compliance conference provided for in Section 12-905 is scheduled.
- .3 The notice shall be sent to the public agency at least 30 days before the date of the compliance conference.
- .31 When the notice of intent to enforce compliance is sent to a county welfare department, copies of the notice shall be sent to the county district attorney and the county board of supervisors.
- .32 When the notice of intent to enforce compliance is sent to a district attorney, copies of the notice shall be sent to the Attorney General, the county welfare department and the county board of supervisors.

12-905	COMPLIANCE CONFERENCE	12-905
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- .1 Any of the persons or agencies who received a copy of the notice of intent to enforce compliance pursuant to Section 12-904.3 may attend the compliance conference.
 - .11 If the compliance conference involves State Plan functions carried out by a district attorney, the Director shall request the Office of the Attorney General to send a representative to the compliance conference.
 - .12 If a district attorney who wishes to attend the compliance conference pursuant to the provisions of Section 12-905.1 requests that a representative from the Office of the Attorney General be present, the Director shall request the Office of the Attorney General to send a representative to the conference.
- .2 At the compliance conference, the public agency may:
 - .21 Present evidence of full compliance; or
 - .22 Present a plan for achieving compliance in an expeditious manner.
- .3 If, at the compliance conference, the public agency makes a showing to the Director of full compliance or sets forth a compliance plan which the Director finds to be satisfactory, the Director shall rescind the notice of intent to enforce compliance.
- .4 If, at the compliance conference, the public agency fails to establish that it is in compliance, or fails to present a satisfactory plan for noncompliance, the Director may proceed to invoke the proposed sanction(s) after notifying the public agency of his/her decision pursuant to Section 12-905.5.
- .5 The Director shall notify the public agency of his/her decision within ten days of the conference.
 - .51 If the public agency is a district attorney's office, the Director shall consult with the Office of the Attorney General before making his/her final decision.
- .6 If the public agency chooses not to attend the scheduled compliance conference, the Director may proceed to invoke the proposed sanction(s) after the date of the compliance conference has passed.

12-906	SANCTIONS	12-906
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The Director may, at any time after giving the public agency notice in accordance with Section 12-904 and subject to the provisions of Section 12-905, invoke either or both of the following sanctions:

- .1 The Director may withhold part or all of state and federal funds, including incentive funds, from the public agency until the public agency makes a showing to the Director of full compliance; or
- .2 The Director may notify the Attorney General that there has been a failure to comply with the State Plan. The Attorney General shall then take appropriate action to secure compliance.
- .21 The Director shall, upon request, cooperate with the Attorney General in developing and carrying out any compliance action which the Attorney General deems appropriate to compel compliance.

12-907	COMPLIANCE WITH MERIT SYSTEM REQUIREMENTS	12-907
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- .1 If the State Personnel Board certifies to the Director that a public agency which is subject to merit system standards is not in conformity with applicable merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, the notice and conference provisions of this chapter shall not apply.
- .2 Upon receipt of a certification from the State Personnel Board, the Director may immediately proceed to invoke either or both of the sanctions provided in Section 12-906.

12-908	RESPONSIBILITY FOR FUNDING	12-908
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Nothing in this chapter shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued operation of the State Plan as required by law.